

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, March 18, 2004

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, March 18, 2004, at 3:00 p.m., at Police Headquarters, 1300 Beaubien, Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II
Erminia Ramirez
Jim Holley
Megan P. Norris **(ABS)**

Department Personnel Present

Chief Ella M. Bully-Cummings
AC Walter Shoulders
DC Willie Burden
Cmdr. Godbee
Insp. G. Turner
Insp. Martin
Sgt. C. Slappey
Sgt. J. Wynn
Sgt. Lemons
Inv. Shaw
PO Watson
PO Huggins
PO Mays
PO Reed
Atty. Nancy Ninowski

Board Staff Present

Dante' L. Goss, Exec. Director
Denise R. Hooks, Attorney/Supervising Inv.
Arnold Sheard, Interim Chief Investigator
Damon Nunn, Police Commission Investigator
E. Lynise Bryant-Weekes, Personnel Director

OTHERS PRESENT

Bernice Smith
Leonard Henderson
Star Ellen Carter
Ms. Walters
Mr. Cracchiolo
June Lee
Eugene Hoode
Sandra Hines
Herman Vallery
Rev. David Murray
Atty. John Goldpaugh
Douglas Korney

RECORDERS

Jerome Adams
Felicia Hardaway

1. CALL TO ORDER

Commissioner Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:15 p.m.

2. APPROVAL OF MINUTES

- **Thursday, March 11, 2004**

MOTION: **Comm. Hampton** made the motion to approve the minutes of Thursday, March 11, 2004.

SECOND: **Comm. Blackwell** seconded the motion

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

4. SECRETARY'S REPORT – EXEC. DIR. GOSS

Suspension

On March 18, 2004, **Police Officer James Sheely, Badge 4375**, assigned to the First Precinct, was suspended without pay by Chief Ella M. Bully-Cummings.

On Wednesday, January 21, 2004, and then again on Tuesday, March 9, 2004, the Professional Accountability Bureau Internal Affairs Section was notified of an allegation of misconduct on the part of Police Officer James Sheely, Badge 4375, assigned to the First Precinct. More specifically, the allegations of misconduct concerned Officer Sheely's Department drug screening and the presence of marijuana metabolites therein. As a result, an Internal Affairs investigation was initiated.

The Internal Affairs investigation revealed the following:

On January 16, 2004, Officer Sheely was ordered to report to Concentra Medical Center for a Department drug screening wherein he provided a specimen to be analyzed therefore. On January 20, 2004, Quest Diagnostic Clinical Laboratories forwarded a written report to the Detroit Police Department Medical Section confirming the presence of marijuana metabolites in the specimen provided by Officer Sheely with a quantitative level of .57NG/ML. The specimen was then forwarded to Labcorp for confirmation. On January 28, 2004, Labcorp forwarded a written report to the Detroit Police Department Medical Section confirming the presence of marijuana metabolites in Officer Sheely's specimen with a quantitative level of .58 NG/ML.

On January 29, 2004, Officer Sheely was interviewed by the Internal Affairs Section wherein he admitted to smoking marijuana. In so doing, Officer Sheely indicated that he was at a bar with some acquaintances that were smoking marijuana and "when they passed it to him he took a hit."

On March 5, 2004, Officer Sheely was ordered to report to Concentra Medical Center for a Department drug screening wherein he provided a specimen to be analyzed therefore. On March 8, 2004, Quest Diagnostic Clinical Laboratories forwarded a written report to the Detroit Police Department Medical Section confirming the presence of marijuana metabolites in the specimen provided by Officer Sheely with a quantitative level of .64NG/ML. The specimen was then forwarded to Labcorp for confirmation. On March 15, 2004, Labcorp forwarded a written report to the Detroit Police Department Medical Section confirming the presence of marijuana metabolites in Officer Sheely's specimen with a quantitative level of .73 NG/ML.

On March 16, 2004, Officer Sheely was interviewed by the Internal Affairs Section wherein he admitted to smoking marijuana. In so doing, Officer Sheely indicated that he smoked marijuana at his residence on March 1, 2004.

Based on the above circumstances, it is recommended that Officer Sheely be charged with, but not limited to the following violation of the Detroit Police Department Rules and Regulations:

**CHARGE: CONDUCT UNBECOMING AN OFFICER; CONTRARY
TO THE LAW ENFORCEMENT CODE OF ETHICS,
THIS BEING IN VIOLATION OF THE 2003 DETROIT
POLICE DEPARTMENT MANUAL DIRECTIVE 102.3-5.7.**

Due to the seriousness of the conduct, I am requesting your concurrence with the suspension of Officer Sheely without pay, effective March 18, 2004.

Exec. Director Goss asked if there was an attorney here on behalf of Officer Sheely?

DPOA Atty. John Goldpaugh stated that he is assuming based on the last comment from Executive Director Goss that we are here to request suspension without pay because these are extraordinary circumstances or those circumstances which would require contrary to Article 9, Collective Bargaining Agreement, and immediate suspension without pay. To be quite honest, even with the facts, he has to reason to contest those facts because that is not the reason why we are here at this hearing. Even if those facts as reiterated are 100% accurate, they do not present any evidence or any indicia of why Officer Sheely's status with the Detroit Police Department should be suspension without pay. The reason is because that you will note in the document that was read by Mr. Goss stated that Officer Sheely tested positive for marijuana in January of 2004; at that time Officer Sheely admitted to its use. Under the contract and the past practices, after a full and complete hearing either by way of a chief's hearing, or if the individual contests the chief's hearing, then through trial boards and arbitrations, etc., then the penalty will be implemented and that penalty would be 30 days. Since Officer Sheely admitted to it, there would be no false statement charges. Nothing occurred from the 1st date in January. In other words, Officer Sheely was not suspended with pay; there were no actions, and he is not suggesting that he should have been, he is just stating that nothing like that happened. Although there were attempts and there have been things in the past, maybe a year ago, there was a suspension for a first-time offense, it was a suspension with pay pending a hearing, we didn't have that and absolutely nothing occurred, he went back and went to work.

DPOA Atty. John Goldpaugh stated that from a review of the documents, subsequently in March, (he) Officer Sheely tested positive again. Officer Sheely comes in and he admits that he smoked dope. Atty. Goldpaugh does not agree with it, he is not condoning it but that is what Officer Sheely did and that is what he admitted to. That however, that fact that he admitted to the offense does not raise the level of his status to a situation under Article 9, which is what we are talking about, which says that now we have to deprive him of his pay, we have to suspend him without pay. There has never been a first hearing and he is suggesting to the Board that if in fact that the Department had brought charges against him for the first offense, and eventually Officer Sheely went to a Chief's hearing, or whatever the proceedings would be, or he accepted that penalty and stated okay he was wrong, and stated he was not supposed to be smoking dope, and this is what my penalty will be, and I have

to go through the training and so forth. He suggested to the Board that even if Officer Sheely had then tested positive at this point and time, in March of 2004, 2 or 3 months later or 2 or 3 months after he had gone through these proceedings, that suspension without pay would not be the appropriate remedy. Officer Sheely could be disciplined for that, charged with that, but he could not be removed from the payroll for that. He says that because although this is a Article 9 argument, we have past cases and it deals with basically an arbitration decision from Mr. Romell, where he combined a number of cases. In both of those cases, the officers admitted to or in fact, one of them he thinks did not admit it the first time, but both of them received a 30 day penalty and then after the 30 day penalty, they went to a 2nd Chief's hearing because of smoking marijuana for a 2nd time. At that time, the Department tried to implement a dismissal for 2nd offense and they also attempted to remove them from the Department immediately pending Departmental hearings. The arbitrator said no, you can't do that. He then went on to state the need for rehabilitation, he was not given the chance to be rehabilitated. That goes more to an argument as to whether or not these offenses in close proximity would result in a firing after a full and complete hearing. He is here only today to argue that under Article 9, the fact that officer tests positive and admits it, within a 2 month period, is not those extraordinary circumstances which should result in suspension without pay, because there has been no hearing, and besides that, we don't have the extraordinary or egregious conduct aspects of it. We have the past history from the arbitration decisions, which though not on point, do deal with this. Although they are not directly on point, it clearly shows that even if this officer was in front of you, having gone and suffered a 30 day penalty, and then committed the 2nd act, you could not suspend him without pay until after he had exhausted all of his administrative remedies. For those reasons, I ask that the Chief's request not be granted.

Comm. Ramirez stated that according to the suspension that it states that the officer was tested 3 times?

Atty. John Goldpaugh stated that he thought it was only twice.

Comm. Blackwell stated it was twice.

Comm. Ramirez stated okay. She had seen levels of .57, .58, and .73. She asked was that a typo?

Atty. John Goldpaugh stated that there were two (2) tests; one was in January and the other in March. Looking at the documents that I was provided with, it states he had .58

Comm. Blackwell stated there were two (2) different labs for the same test.

Atty. John Goldpaugh stated that what normally happens is that they will send it to one (1) lab, there is a preliminary test and then after a period of time, the 2nd one comes up.

Comm. Blackwell asked if someone is caught with marijuana in terms of possession, how is that treated? Not a police officer just anybody? Does anybody know?

Atty. John Goldpaugh asked you mean with respect to if there is a criminal arrest?

Comm. Blackwell answered yes.

Atty. John Goldpaugh stated that he guessed we could contest the arrest and contest all different things.

Comm. Blackwell stated no, no, I mean.....

Atty. John Goldpaugh stated you are asking me how he is treated. I don't know.

Comm. Blackwell asked if somebody is arrested, are they charged with possession, and is that a crime?

Atty. John Goldpaugh answered it is a crime, of course.

Comm. Blackwell asked so the issue is this is Article 9 versus somebody breaking the law?

Atty. John Goldpaugh stated no, the issue right here today is.....

Comm. Blackwell stated he means is what we are trying to establish?

Atty. John Goldpaugh stated no, what we are talking to

Comm. Blackwell stated we know that you don't argue if someone is charged with a felony even though they are not convicted?

Atty. John Goldpaugh stated that is correct.

Comm. Blackwell stated that you don't fight suspension with pay?

Atty. John Goldpaugh stated that is correct.

Comm. Blackwell stated that even though they have not been convicted?

Atty. John Goldpaugh answered that is correct.

Comm. Blackwell stated that we are talking about somebody who.....

Atty. John Goldpaugh stated suspension without pay I believe you said suspension with pay.

Comm. Blackwell stated without pay.

Atty. John Goldpaugh stated that is correct.

Comm. Blackwell stated that he said without. So he is asking anyone charged with possession would probably be a misdemeanor charge? Because if it is a felony charge by your definition, it would not be an argument?

Atty. John Goldpaugh answered that is correct. First of all, we are not here because he is not charged with anything. He is charged with

Comm. Blackwell stated yes... he knows what he is saying.

Atty. John Goldpaugh stated I'm telling you that is what he is charged with. He is not charged with a crime be it a misdemeanor or not.

Comm. Blackwell stated that one of the issues relative to this Board is clearly you are saying that somebody being able to get counseling, after this multiple times, has this officer ever suggested that he needed help? Is there any record of that?

Atty. John Goldpaugh stated that he can only tell you, Comm. Blackwell that I was informed based on these documents as to what occurred. He came in; and he was randomly tested in January. He doesn't know when the officer came on the job, but it appears that in January of 2004 for the 1st time, and again, I do not know how long he has been on the job, he tested positive for marijuana. When questioned, he admitted that he took a "hit" at the bar according to these documents.

Comm. Blackwell stated then he went back to work.

Atty. John Goldpaugh stated he went back to work and then two (2) months later, he is randomly tested again.

Comm. Blackwell asked then he admits to smoking it again?

Atty. John Goldpaugh answered and he admits to smoking it again. That is correct.

Comm. Blackwell asked do you know during that period if he ever asked for help since we are suggesting that he may need it in your illustration that he may have needed to have been counseled or given an opportunity to get corrected or whatever?

Atty. John Goldpaugh stated that he does not know that answer. But number two (2) that is not what I suggested if that is how you took it. All I was suggesting or stating was that in the Holman/Becham arbitration decision, he believed it was in 1989 or 1990, that is what the arbitrator decided or determined that we are not talking about whether or not he can be disciplined for these, but only whether or not he should be removed from the payroll, to be suspended without pay pending the hearings.

Comm. Hampton asked the prior arbitration decision, how many offenses were included in the case.

Atty. John Goldpaugh stated that case, Comm. Hampton, dealt with he believed was an Officer Holman and Officer Becham, and they were combined together. In both of those cases, the officers and that is why there is a big distinction here. In both of those cases, Officer Becham and Officer Holman had tested positive. At a point and time after they tested positive, they went and had a Chief's hearing. At the Chief's hearing, the Chief gave a penalty of 30 days and also to go for the counseling and for 5 years probation in the agreement. A short time after the Chief's hearing, both individuals tested positive again. They went to a 2nd Chief's hearing, and at the 2nd Chief's hearing, the officers were fired from the Department. The Department at that time said you are fired and you are off the payroll. In other words, you are suspended without pay, go appeal anything you want and you are off the payroll. The arbitrator found, in here we have two (2) findings of guilt; one which they never appealed the 3rd date of suspension so that was in effect, and in that case, the arbitrator said no, you cannot suspend them without pay pending a determination of the 2nd adjudication.

In this case, we have no findings of any guilt, other than this officer tested positive and admitted it. We have had no implementation of any type of departmental discipline against him. I am not suggesting for this argument that he shouldn't be disciplined for these things; I am only suggesting that this does not rise to an Article 9 violation where he should be suspended without pay at this time.

Comm. Blackwell asked if Atty. Goldpaugh believed that being charged with a felony does rise to an Article 9 violation?

Atty. John Goldpaugh stated that he does not believe that. He only believe that over the last 25 years whenever an officer has been charged with a felony, under the circumstances, we have not come in and contested that as part of the union. We have come here and contested everything else short of a felony.

Comm. Blackwell stated that he understands that. He states looking at extraordinary nature where someone comes in and not only violates something twice in terms of orders and conducts of a police officer; and admits to it twice. We are saying that a guy that is charged with a felony could be totally innocent and you don't challenge the fact that you suspend that person with pay either? In 25 years, you have not challenged it? Even though it may be not congruous with Article 9?

Atty. John Goldpaugh stated that is correct. Well, because Comm. Blackwell...

Comm. Blackwell stated let me just finish.

Atty. John Goldpaugh stated that is just fine. I just want to respond to you that's all.

Comm. Blackwell stated that it is just in terms of a practicing standpoint, you guys have taken a position that you won't challenge us even though you could under Article 9?

Atty. John Goldpaugh stated because

Comm. Blackwell stated no, no, am I right or wrong?

Atty. John Goldpaugh answered no, because.....let me.....

Comm. Blackwell asked am I right or wrong in terms of you could challenge it or can you challenge it?

Atty. John Goldpaugh answered sure.

Comm. Blackwell asked but you haven't?

Atty. John Goldpaugh stated it has not been challenged because if you look at Article 9, and the look at the reasons, and we have had this argument on misdemeanors, on a number of different matters. We have had this argument on uncharged alleged misconduct, but because when you look at Article 9, one of the criteria, in fact, the major criteria and you look at the Grover decision, which is in connection with Article 9. You look to see if in fact, there would be an adverse affect on the individual and his continued police work. I would suggest to you as we have never come in an argued that because an individual is charged whether right or wrong with a felony, that would have an adverse affect on his ability while he is undergoing those charges. The mere fact that he has admitted to smoking marijuana and has continued on his employment during that period of time does not rise to the level of an adverse affect.

Comm. Blackwell asked in your opinion?

Atty. John Goldpaugh answered yes in my opinion and obviously in the Department's opinion for at least since 1988 when this went into effect.

Comm. Blackwell asked so you say that it doesn't have an adverse effect when you pull a car over and kids are in the car smoking drugs and you take them into custody. But you smoke weed and it is alright?

Atty. John Goldpaugh answered I don't.

Comm. Blackwell stated not you but the person that you are here defending.

Atty. John Goldpaugh answered that is correct.

Comm. Blackwell stated that not only has he smoked it once. It looks like the first time, there was nothing done and he did it again. A subsequent test was done and it

is just a question of setting a standard. The issue is when you read the charge, does this Board feel that this is conduct unbecoming of an officer? You have addressed Article 9 and all of the other issues so skillfully. It is a issue where we said to you when the former Chief was here relative to raising the bar, we wanted to give every officer an understanding to know where the Board was but once we did that, officers understand that we expect that we are going to enforce the laws and ordinances of the City of Detroit, Wayne County, State of Michigan, and the United States Government. It seems that the police officer has to be better than the person that they are arresting. If the police officer can do things and maintain his job with no consequences, then how can we really effectively go out and do law enforcement to others that we are saying to abide by this standard? I know that Article 9 and all of other issues is not withstanding, that is a major issue.

Atty. John Goldpaugh answered Commissioner I do not disagree with what you are saying but we are not here to decide whether or not based on all of the facts in a contested hearing that this officer is guilty of conduct unbecoming of an officer. We are only here for one purpose and that one purpose is in light of Article 9 of the Collective Bargaining Agreement do these allegations because of what occurred in a short period of time rise to the issue where without a hearing, without due process, this Board should similarly deprive him of his paycheck. Should he be suspended without pay that is our only issue today?

Comm. Holley stated that the allegations maybe from a legal standpoint but he has admitted it and it is not like it is a whole lot to work out here. The date of suspension is effective March 18, 2004. How long is the process for adjudication?

Comm. Ramirez asked to bring up charges?

Atty. John Goldpaugh stated I cannot answer that. When they come to me, that is when I argue them.

Comm. Holley asked so in other words he could be.....

Atty. John Goldpaugh stated he could be suspended without pay for a year and a half.

Comm. Blackwell asked or he could be with pay and not have a Chief's hearing for a year and a half?

Atty. John Goldpaugh answered that is true. He could have a lot of different things but that has nothing to do with us. Or he could go to a Chief's hearing in a year and a half and be found guilty and then still have a second to wait around.

Comm. Holley stated but the point is ...

Atty. John Goldpaugh stated that is not what we are here for.

Comm. Holley stated that you are probably right in a court that is not what we are here for but from a standpoint of our responsibility to the citizens of this community, we are here to protect the community and have responsibility to the community. It puts me in a bind because you are talking about a decision that you are asking me to make or someone is asking me to make with or without pay for some unknown time. It seems like it is not enough information to work with here. Even though I understand to some degree of the legalities here, nevertheless, you have answered my question.

Comm. Ramirez stated maybe Nancy Ninowski can answer them when she comes up because there are some missing links here and maybe Nancy will be able to correct it. But I can see that he did his urine January 20, 2004, and I am asking why wasn't anything done or maybe there was something done and maybe Nancy will shed some light there since you said you just received the information. You don't know whatever happened in between and then this police officer continued and nothing was done and continued to be a police officer. There was no counseling or anything and then again he was given another urine sample and he continued to do what he is doing. Now all of a sudden here we are and now you want him out.....(inaudible)

Atty. John Goldpaugh stated he don't want him out, they want him out.

Comm. Ramirez stated no, I know but suspended without pay.

Atty. John Goldpaugh stated that is why he is trying to argue that he should not be without pay. I don't want him out at this point and time.

Comm. Blackwell asked would you want him patrolling your neighborhood under the influence?

Atty. John Goldpaugh stated no, of course not. I would not want other people doing a lot of other things in my neighborhood but doesn't mean by suspending him without pay is appropriate under these circumstances.

Comm. Blackwell addressed this to Chief Bully-Cummings that this charge I think is very serious when we say conduct unbecoming of an officer. That is part of a law enforcement code of ethics. Chief, when you bring this kind of an issue to us obviously this is a very serious issue with you, and the issue that you bring I am sure that you bring it very carefully and judiciously understanding there has been no felony charge and nothing else. I guess for us as a Board maybe as we go further down this thing in terms of policy, I feel comfortable with upholding the Chief's recommendation on an issue like Rev. Holley said where it is not a issue where he has been charged and never admitted it. Whereas not only did it show up medically in the test but he stated yes, I did it. That is just from the two (2) occasions that were tested, who knows if this was not probably the first time this has happened and the issue is we are sitting at a public meeting where we represent the public and the public wants somebody to be coherent that has a firearm on them. We are saying that the officer is

smoking weed and lets keep him going until we can figure this stuff out or at least let him keep receiving his money until we sort this out. I understand your legal argument and I am saying Chief maybe at the end of the day when the new contract comes thru or something, because I certainly think that this Board of Police Commissioners said to you as Chief and certainly said before you issues like this we want you to bring them to us because we are trying to clean up our police department.

Atty. John Goldpaugh stated that he wanted to make a comment toward the charge before you. If I may Comm. Blackwell, we talked about the conduct unbecoming of an officer charge brought here and I am sure that you have heard a number of these arguments under Article 9, and every time we come before the Board on an Article 9, it is the "catch all blanket" charge of conduct unbecoming an officer. Truly, a very serious charge and I agree. However, the majority of the charges that we argue about, even under these issues, do not result in discipline charges because this is not a discipline charge that was brought against him. This is the conduct unbecoming an officer claim that has been made which can be contested but we are not contesting the allegations. When it all comes about and when this officer is finally charged with violations of the rules and regulations of the Department; historically and basically, I have never seen any other charge but use of a controlled substance, that is what the charge will be that he faces departmental unless now of course, we are now adding to the pot, however, that is the charge not conduct unbecoming an officer. That is true also of whether or not he admits to it or whether or not he doesn't admit to it. If he doesn't admit to it, then they add a second charge, so for you to say Commissioner that it makes a difference at this point and time under an Article 9 argument, that while we should suspend him without pay because not only did he smoke the marijuana but he was honest when asked about it. That flies in the face of this investigation and it flies, yes it does Commissioner and it flies in the face...

Comm. Blackwell stated no that is not what I said.

Atty. John Goldpaugh stated you said he should be suspended without pay because he admitted it.

Comm. Blackwell stated because he smoked marijuana and he is operating a vehicle and carrying a firearm in God knows what state of mind.

Atty. John Goldpaugh stated and you also said because he admitted it.

Comm. Blackwell stated I am saying because he admitted it, that means that in effect that is what he was saying. It is no different when they pick up people that do something that is bad and they admit that they are doing it; we don't reward them for being honest. It makes the investigation go faster okay so...

Atty. John Goldpaugh asked is it my understanding ... I'm sorry to interrupt you. It would be my understanding then that if he had said no I don't know what happened and I didn't do this and we wouldn't be here?

Comm. Blackwell stated maybe he thought and the first thing he said was that I was friends and smoking marijuana and maybe he said I got a contact. There are all kinds of ways if he really felt he wasn't breaking the law, then it might have been different or something we would have listened to. This Board has voted many times contrary to the administration, the Chief, and everybody on cases and you know that.

Comm. Hampton stated that he admitted it and it wasn't coerced, it wasn't under duress and not only that.....

Atty. John Goldpaugh stated yes it was. He was ordered to answer the questions and answer the questions truthfully to the best of his knowledge.

Comm. Hampton stated well that is not coerced.

Atty. John Goldpaugh stated in other words, he was also informed that he if he didn't tell the truth, he could be disciplined for lying.

Comm. Hampton stated that also the test results show that it was positive.

Atty. John Goldpaugh stated that I don't disagree with that but we are not here to argue whether or not today whether or not he should be disciplined for this.

Comm. Hampton stated okay I hear your process. We would like to call someone from the Department.

Atty. Nancy Ninowski stated that this is the Department's petition to suspend the duty status of Officer Sheely. If I could briefly review suspensions without pay, it might help focus the argument and the issue. The authority to suspend the duty status of an officer without pay is derived from the Detroit City Charter and that is given to the Chief of Police with the concurrence of the Board of Police Commissioners. That authority is recognized in the respective Collective Bargaining Agreements. You heard Mr. Goldpaugh refer to Article 9 (f) in the Detroit Police Officers Association contract. Article 9 (f) is referred to the under normal circumstance provision and in essence what that provision says is: Under normal circumstances in the average case, the duty status of a Detroit Police Officer will not be suspended without pay pending departmental disciplinary proceedings. The issue becomes what are the exceptions to the under normal circumstance provision. Thus begins a series of arbitrations starting with Grover in 1980 and continuing until present day discussing the under normal circumstance provision and the exceptions there too. What we have learned from the arbitration cases over the years is that there is no hard and fast rule. Each case is judged on its own facts and what you are looking at or the question that you are answering is: Did the officer commit a serious act of misconduct? How do you determine that? You look at the act itself but you also look at the act's impact on the Department and I think most importantly you look at the act's impact on the community. So let's look at the facts of this case very briefly. Officer Sheely is

ordered in January 16, 2004, in for a drug test. That test comes back positive. It is sent out for a confirmation test and that test confirms the positive reading. Within 49 days, Officer Sheely is then ordered to submit to another drug test, 49 days from his first test and he tested positive, and that is confirmed. That is the act that we are talking about. The Department's position is that act is egregious. It is egregious enough to warrant a suspension without pay of Officer Sheely's duty status and I will tell you why. Look at the act itself; it is against the state law, it is against the city code, it is against the rules and regulations of this Department. Think about this, the core mission of this Department; one of the core missions of this Department is to eradicate the very type of behavior here that this officer was involved in. In fact, this Department spends millions of dollars a year eradicating that very type of behavior that this officer was involved in. That is the act that we are talking about. Look at the impact this act has on the Department. This Department is service oriented. It provides a service to the community. That service is public safety. That service is provided by the Detroit Police Officers, whom the Department has placed a great deal of trust in. How can the Department have trust and confidence in this officer to perform that function? There is absolutely no use in the workplace for this type of act, especially when you are talking about service being provided for public safety and the safety of your fellow officers. Let's look at the impact this act has on the community. In order for the Department to effectively operate, this community has to have confidence in its abilities. This act not only undermines that confidence, but it casts doubt on the integrity of this Department. That act in of itself is an illegal act. It is against the rules and regulations of this Department and it is against the core mission of this Department. It flies in the face of everything that this Department stands for.

Let's go to the arbitration decision that Mr. Goldpaugh was referring to. I don't necessarily disagree with him in terms of how he has described that arbitration decision. It did come out in 1989. There were two (2) officers involved. I believe that both officers were suspended without pay for second time use of marijuana. One of those suspensions without pay was upheld by the arbitrator and the other was not. The case that was not upheld, that officer had tested positive for marijuana usage in July of 1989. Within a 90 day time frame, he was scheduled for a Chief's hearing and he went to the Chief's hearing, and the penalty was imposed at that Chief's hearing. After the Chief's hearing, after 90 days, he again tested positive for marijuana. We don't have the same facts here as we had then. We are talking about a 49 day period, we didn't even have enough time to have an opportunity to act for this officer. His case is scheduled for a Trial Board hearing in May 2004.

Second, I think more importantly, since that arbitration decision has come down, things have changed. A lot of the drug laws, the penalties have been increased. Forfeiture laws with respect to drugs have been written. As I stated, the Department spends millions of dollars a year to eradicate the very behavior that this officer was involved in. Based on all of the above, I would respectfully request that you concur with Chief Ella M. Bully-Cummings decision to suspend the duty status of Officer Sheely without pay, Thank you.

Comm. Hampton asked that being that smoking marijuana is a violation of state law and city ordinance you stated?

Atty. Nancy Ninowski answered yes.

Comm. Hampton asked does this supercede Article 9, the law?

Atty. Nancy Ninowski answered well, I don't know if I understand the question. Does the law take the place of Article 9?

Comm. Hampton answered correct. Does it supercede Article 9?

Atty. Nancy Ninowski answered no, I don't think so. I think you have to reach simultaneously though. I think you read Article 9 in light of the fact that there is a state law and a city ordinance prohibiting the possession and/or use of marijuana.

Comm. Holley stated that his problem with this is there is some statesman, I don't recall his name, indicated that "I may not agree with what you say but I will defend your right to say it." I agree with what you are saying but I defend the process for a individual. My concern is that if he or she is guilty of all of the things that you have stated, it would seem to be the worst suspension is what brings cloud for me. The routine ought to be that the person is fired so that justice understands what it has to do and there is a time factor here. You put me personally in a position when you say suspension without pay. It could go two (2) or three (3) years, and if he is found innocent; then I owe him three (3) or four (4) years back pay or he could be found guilty. The point is that in 1989, the arbitration was in 90 days.

Atty. Nancy Ninowski answered, not the arbitration hearing but the Chief's disciplinary hearing.

Comm. Holley answered right. But here, I'm told when I ask the question that egregious as it may be and it is, is that there is no time factor here with or without. I don't understand, if you break the law, the ordinances with the consent decree that we are trying to come into compliance with, it would seem to me that everything should be black and white, rather than gray. The suspension is gray to me, it is not black and white. Am I making sense here? I am not saying what you're doing or what your language is trying to change it, it is just that you are asking me to make a decision about an officer that I feel like even though I agree with you, he or she still should have due process.

Atty. Nancy Ninowski stated that I think I can address your concerns. I have a 2 point response. First, there is a process in place to make sure that when an officer's duty status is suspended without pay, the disciplinary case is scheduled for a hearing within a 30 to 45 day period. I can assure you of that.

Comm. Holley answered okay.

Atty. Nancy Ninowski stated that suspensions without pay, she is not suggesting that they are an easy thing to deal with. They are based on allegations in of themselves before the disciplinary process begins. They are separate and apart from the disciplinary process. The fact remains that the City Charter allows for them as does the Collective Bargaining Agreement, and that would be your discretion whether or not you thought the act was egregious enough to warrant a suspension without pay of that officer's duty status.

Comm. Blackwell stated that theoretically, the first issued happened in January, and he has had 60 days. But before they could get to 60 days, it happened again. The other issue is that we are trying to recruit officers. If anybody tested positive for marijuana, they don't receive another chance. We are trying to recruit young African Americans and they can't get in, any exceptions whatsoever. Here is an officer that is here and not only does it once, but does it twice, and we are arguing maybe that he can go to the Chief's hearing or whatever. When somebody in the NBA gets into a fight, when they suspend that player for that day; he doesn't get paid for that day. If these guys could fight and get suspended and keep their paycheck, there would be some guys knocked out every other game. There is a punitive portion to suspension. I think that when you don't suspend somebody and when you suspend somebody with pay, it is still a suspension. But somebody at home and still receiving a check is not really sending a message or at least establishing what we are trying to do. We have gone through this process many times, Mr. Chairman, on giving people their rights, and we have reinstated officers. We try to be as fair as possible but to be honest with you, if we are trying to send a message to the community that we are equal or even, the people that we arrest and we treat in the streets, we don't treat our officers any different. I think that is where we are trying to go and that is my big issue is that after listening to Ms. Ninowski and the way she presented it that this person clearly..... I don't know if the person has a problem or not and I am not against counseling or create some other kind of policy but smoking and getting caught and comes back and smokes again, something is wrong. The question is if we are going to keep supporting that kind of behavior by allowing that, I just think we are really going out of the world backwards. I have heard enough of what I needed to hear in order for me to make a decision I am comfortable with. One thing that Rev. Holley said that I think we need to move towards. Obviously, Collective Bargaining is a real difficult issue and there all kinds of provisions. Chief Bully-Cummings has a hard job and you have to work within the rules, etc. But at some point, we need to be able to establish what is good for the goose has to be good for the gander. Maybe we need to treat the ganders different so then we treat the geese different. There are kids out there everyday and their whole lives are messed up because they are pulled over. They may be honor students at a school and there is marijuana in their car; they get a record. They can't get hired by the casino ever; they can't be a police officer ever, and now we are talking about a police officer that has done it twice and we are talking about let's see what we can do. I can't do it. It is just a principle thing with me. I am sure that counsel is going to fight effectively for their client to make sure that he gets

every right to get reinstated. We follow the law and if that happens, we have no choice.

Comm. Blackwell addressed to Chief Bully-Cummings that when she brings something like this forward, which you have done today, which I know you don't do lightly; anytime you are asking to suspend somebody, if you don't establish an idea of how you are going to govern then everybody is not clear. I think that this is a clear and concise message that the Chief of Police is serious about the integrity of the police department. So with that point, I have gotten enough information to be able to make my vote.

Atty. John Goldpaugh stated that the egregious event that has caused us to be here today is not the fact that the man smoke marijuana, but the egregious event is that he smoked it twice. That is what this is all about. He smoked it within 49 days. You didn't see Ms. Ninowski here saying that we can't have people out there smoking dope after he tested positive the first time, Did you? That was in January. So it is not the egregious event that takes us out of Article 9, and Comm. Holley you brought that up, we talked about the distinctions between suspensions and discharges. I am not standing before you saying that this man is not going to be disciplined for this. I don't know what is going to happen. We are only here to address the Collective Bargaining Agreement, under Article 9. It was interesting that Comm. Blackwell brings up basketball fights where you get suspended for a day and they take your money away from you. Of course, in today's salaries, who knows how much that means, but, two things occur, it is not an indefinite suspension and the Collective Bargaining Agreement that they have entered into provides for suspension and an opportunity to fight to get that back. In this case, our Collective Bargaining Agreement that we are addressing says that you can suspend, you can fire, and you can discipline according to the rules and regulations of the Department. We have a full hearing and due process, etc. but unless this alleged misconduct, I am using alleged now because we are taken out of this particular incident, is out of the normal circumstances as Ms. Ninowski cited the Collective Bargaining Agreement says you don't lose any money until after you have exhausted all of your remedies. That is all we are asking at this point and time. We are not suggesting that Officer Sheely should not be disciplined, all I am suggesting is that under these circumstances and under the way this is petitioned, he should not be suspended without pay in violation of Article 9. The second interesting.....

Comm. Blackwell stated just a brief point of information. This is also not an indefinite suspension.

Atty. John Goldpaugh stated it is suspended without pay.

Comm. Blackwell stated but you said like in basketball, this is also not an indefinite suspension.

Atty. John Goldpaugh stated well.

Comm. Blackwell stated that at some point, now listen, at some point there is going to be a conclusion.

Atty. John Goldpaugh answered that's right.

Comm. Blackwell stated either termination or reinstatement.

Atty. John Goldpaugh stated that is correct.

Comm. Blackwell stated that argument did not jive with what you said.

Atty. John Goldpaugh stated that it does because....

Comm. Blackwell stated that it just takes it out over a longer period of time.

Atty. John Goldpaugh stated that because this is not a suspension for discipline. If you came in here and said he is fired.

Comm. Blackwell stated that this is a suspension for behavior.

Atty. John Goldpaugh answered exactly. But it is not for discipline suspension. It is a suspension to be suspended outside of the normal process and that is our argument. That's why it is an indefinite suspension. Now Ms. Ninowski has said well when people are suspended without pay, we get to appoint where they are supposed to have a hearing within 45 days. Well, I don't know about that. But I do know that we have a whole lot of people out there suspended with and without pay who have not been to any kind of a hearing and it has been much longer than 45 days.

Comm. Blackwell stated that I think you also made the point that you nor I have nothing to do with that?

Atty. John Goldpaugh answered no and I don't. But I mean you brought that up saying that it is an indefinite suspension.

Comm. Blackwell stated that well he is saying that it is not indefinite.

Atty. John Goldpaugh stated that it is because this suspension will have to be converted into discipline charges brought against him.

Comm. Blackwell stated that at that point, the suspension stops being indefinite.

Atty. John Goldpaugh stated that is true.

Comm. Blackwell stated alright so it means it is not an indefinite suspension.

Atty. John Goldpaugh stated the second thing, it will be because he has been suspended all of this time without pay without due process.

Comm. Blackwell stated not indefinite, that means forever.

Atty. John Goldpaugh stated okay I won't argue the words over that.

Comm. Blackwell stated okay.

Atty. John Goldpaugh stated the second interesting point is when Ms. Ninowski talked about the egregious incident, with being the second time that he had admitted to smoking marijuana. We then referred to the arbitration decision and Ms. Ninowski pointed out that was a situation which is not right on point because the word hearings. But it is interesting to note that in both of those cases, both of those cases, both of those officers had admitted or found guilty through the disciplinary process of smoking marijuana, and then told if you get caught again, this is what is going to happen to you. Within a very short of period of time after being told, they are out there doing it again. If that is not egregious enough to result in suspension without pay and it didn't because the arbitration awards indicated that it was not; then how can it be deemed that a second offense, hey I smoked marijuana two (2) months ago, you didn't do anything about then, and I don't suggest that they should have, I am not suggesting that. But then to come in here two (2) months later or actually one (1) week and two (2) months later after this second egregious event, and say we can't have people smoking marijuana out there and that is why you should deprive him of his pay without a due process hearing and in violation of Article 9. That is the only thing I have to say and that is what we are here about.

Comm. Holley stated that he didn't think we had any choice but to uphold the decision of the Chief's recommendation. I would like to move to that.

Unless contravened by this Commission, the above suspension without pay will stand.

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
Weekly Count of Complaints:	23	277

2003

During the past week:	19	Year to Date: 249
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****Due to the database system being down, the actual breakdowns of figures are not available.**

5. REPORT/PRESENTATION – CHIEF OF POLICE

DETROIT POLICE DEPARTMENT

REPORT TO THE BOARD OF POLICE COMMISSIONERS



BUILDING A SAFER DETROIT THROUGH COMMUNITY PARTNERSHIPS.

The Detroit Police Department is committed to uphold its mission to provide a safe environment for our residents and business. This effort is not possible without the joint commitment of the community and the Police Department.

ENFORCEMENT ACTIONS

The Narcotics Enforcement and Conspiracy Sections conducted five (5) enforcement actions in the City of Detroit. The enforcement actions resulted in the following arrests and confiscations:

- ◆ 7 Felony arrests
- ◆ 2 Misdemeanor arrests
- ◆ 409.5 Grams of cocaine, 29 grams of heroin and 88,548.16 grams of marijuana – street value \$570,198.64
- ◆ \$758 U.S. currency

The Vice Section conducted Operation Crusaders in the 9th Precinct area. The enforcement actions resulted in the following arrests and confiscations:

- ◆ 7 Arrests for “Admitting & Receiving”
- ◆ 6 Arrests for “Disorderly Conduct/Flagging”
- ◆ 1 Arrest for “Offer to Engage”
- ◆ 7 Vehicles confiscated

FIFTH/EIGHTH PRECINCTS

The City of Detroit Parking Violations Bureau is conducting an amnesty program that will run through April 3, 2004. The City has reduced the amount owed on fines by 50%, to encourage citizens to pay all of their fines.

The Fifth/Eighth Precincts have been designated by the Parking Violations Bureau as locations where citizens can drop off their fines. The Parking Violations Bureau has placed a placard and a locked box inside the designated precincts for citizens to deposit their fines.

SIXTH PRECINCT:

On March 3, 2004, off duty Police Officer Steven Coykendall observed that a *"Home Invasion"* was possibly in progress at his neighbor's house. It occurred during a time of day that Officer Coykendall knew that his neighbors were not at home. He went outside to investigate and observed a vehicle drive away. He called 911 and followed the vehicle, but lost sight of it. A vehicle matching the description was later observed in the area of Stahelin and West Warren. After Scout 6-10G conducted a traffic stop, they observed power tools, a laptop computer, cordless phones, and other items in the vehicle. The two occupants were arrested. They were positively identified by Officer Coykendall and charged with *"Home Invasion 2"* and *"Larceny in a Building."* It is highly probable that their capture will solve other home invasion cases within the Sixth Precinct.

TACTICAL SERVICES SECTION (T.S.S.):

On March 12, 2004, T.S.S. officers were working in the 4th Precinct area and responded to a "Breaking and Entering" police run, in the 8700 block of Michigan Ave. Upon arrival at the location, officers found that the subjects fled the premises. Officers were given a description of the subjects by the complainant. As a result of the fast actions of the officers, they were able to apprehend one of the subjects.

HOMELAND SECURITY

March 1-5, 2004, the department's Special Response Team (SRT) received 40 hours of training on weapons of Mass Destruction Course for the Tactical Operator. This course was designed to develop skills and abilities to effectively perform tactical missions in environments containing a weapon of mass destruction or other hazardous material. Seven (7) SRT members became certified Weapons of Mass Destruction Tactical Operators, as a result of this course.

COMMUNITY RELATIONS

SIXTH PRECINCT:

The Sixth Precinct Community Policing Unit is sponsoring an open forum for teens on Thursday, March 18, 2004, from 4:00PM through 6:00PM, at 11450 Warwick (6th Precinct). This event was created to bridge the gap between the teens, officers and the community. Issues that will be addressed are: conflict resolution, peer pressure, anxiety and anger management. Teens are urged to come and talk about what is on their minds. There are currently 40 young people registered for the forum. This is just one of the many efforts from our residents, in collaboration with the Police Department, to improve our community and to show our teens that violence is not the only way to solve differences.

Detroit City-Wide Police Community Relations Council Meeting:

The Monthly Detroit City-Wide Police Community Relations Council Meeting will be held tonight at 6:30 P.M., at the Personnel/Recruiting Section gymnasium, located 14655 Dexter. All Department Executives will be in attendance at the meeting. Mrs. Ruth Barton, the President, will be officiating.

CHIEF OF POLICE ELLA M. BULLY-CUMMINGS

6. APPROVAL OF GENERAL ORDERS - CHAIRPERSON

- **Directive 202.1 (Arrests & Confinement of Material Witness)**
- **Training Directive 04-01 (Arrests and Confinement of Material Witness)**

Comm. Blackwell requested that the General Orders be tabled until next week.

MOTION: **Comm. Blackwell** made the motion to table Directive 202.1 and Training Directive 04-01 until next week.

SECOND: **Comm. Ramirez** seconded the motion

VOTE: All in attendance voted in the affirmative.

7. OTHER BUSINESS

Comm. Hampton stated that on the January 29, 2004, meeting there were some issues raised by the Board of Police Commissioners as it relates to promotion language. He asked if Atty. Ken Wilson was here to address those concerns?

Chief Ella M. Bully-Cummings stated that Atty. Ken Wilson faxed over the Memoranda of Understanding that was signed by J. Douglas Kourney, the attorney for the Detroit Police Lieutenants and Sergeants Association and Ken Wilson on behalf of the city as well as a transmittal letter clarifying the language that appeared on page 45 regarding all sergeants on current promotional list to the rank of lieutenant and what that means. She stated that she was not here at that board meeting but was subsequently told that there was an issue raised that there was an agreement to promote all sergeants to lieutenant. I have here a copy of the MOU as well as the transmittal letter. For the record, the MOU indicates that the sergeants shall be promoted pursuant to the language contained on the top of page 45,

i.e., all sergeants on the current promotional list to the rank of lieutenant means candidates number 22 through 58 on the promotional eligibility roster for lieutenant as it existed in December 2002. So it was very specific as to which members were captured by this language.

Jim Galowski, Lieutenants and Sergeants Association, stated he wished to speak on the issue of utmost importance to the LSA membership that regards promotions; specifically, promotions to the rank of sergeant from investigator. Our contract, the LSA contract between the City of Detroit and the union has been settled for a long time since last June. We, the union abide by that contract. It is our Act 312 decision. A deal is a deal and it is binding on both parties, not only the union but the city. One of the issues through that process, a long tedious process brought before the arbitration panel was the issue of promotions, and a proposal by the city to develop new promotional criteria for promotions. Some of which addressed this Commission's concerns regarding disciplinary records and medical reviews. That was all resolved in that contractual language. The arbitration panel resolved the issue by awarding a new process in language and also for allowing for the promotion of all investigators to the rank of sergeant. The contract is clear and unequivocal. The city now through its labor relations agents has attempted to back out on that binding agreement. It was an agreement that was upheld in Circuit Court which was defended by the city themselves upheld as good and binding on all parts which they now refuse to promote those who are entitled. We are here today in front of this Board, whom I know is a Board of integrity and ethics, and asking to use your power and authority for reconsideration in getting all of these investigators promoted to the rank of sergeant as talked about and worded in our binding 312 Award. I pray for reconsideration. Last week we had ten (10) demoted from sergeant and back to the rank of investigator. The reason given was because of an action brought by a

third party, the rank and file union of the DPOA. They brought action against the city and the city was found guilty of violating an unfair labor practice, failure to bargain in good faith. Because of the city's failure to bargain in good faith with the DPOA, LSA members are penalized; promotions are not given, demotions are given. I ask for reconsideration on all those investigators. Please use your power and authority to promote those to their proper entitlement.

Comm. Ramirez asked it is two unions, DPOA were the ones that

Jim Galowski answered that DPOA brought action against the city which is non-binding on ours. We have a contract, the LSA and the city. Both parties must abide by it. Part of that award which was given by an arbitration panel, allows for the promotion of all investigators to the rank of sergeant without adhering to past practice or precedent. I ask now to use your power and authority to get those promotions done. We are now in the new promotional process and we want our entitlements.

Comm. Hampton asked how would that impact that U.L.P.? (sic)

Jim Galowski stated that it is our position that it does not impact the LSA, the city must bargain with the DPOA. Those parties must get together. There is no unilateral action. We negotiated and we bargained, and ultimately at the end of the day, the issue was resolved by a Commission, by a 312 panel, and that award was given.

Comm. Blackwell asked we are not talking about what we voted to approve several weeks ago are we?

Jim Galowski stated he believed that the issue was and

Comm. Blackwell stated that I am saying and I am asking did this Board vote to approve the recommendations where you are talking about the investigators?

Jim Galowski answered yes, investigators to sergeant.

Comm. Blackwell stated that we voted on that and that was approved. So if we have done that, are you saying that they have reversed our actions?

Jim Galowski stated that I know this Comm. Blackwell that ten (10) sergeants were demoted back to the rank of investigator.

Comm. Blackwell stated that the question he has is that all this Board can do is approve promotions when presented which we did; so the action by this Board has been taken to promote. Now there has been a subsequent action and the question is if the only the Board can concur with promotions, can demotions concur outside of the Board?

Jim Galowski stated that he is asking the Board to use its power and authority. I don't think.....

Comm. Blackwell stated but we have to use it the right way. In other words, the Chief or her representative can only bring promotions to us. She did that, and we acted accordingly.

Jim Galowski stated that he suggest that it was done in accordance with that procedure. But those names were given to this Board for promotion. This Board acted upon that and promoted those individuals to the rank of sergeant.

Comm. Blackwell stated right. I guess maybe I will refer to Ms. Denise Hooks. This Board is not empowered to act outside of the names that have been put in front of us. What he is asking is procedurally legal and appropriate is what I am asking. I am not arguing what happened outside of our function but when we vote, and we did the appropriate thing; in the event what else could we do, if anything in light of something happening outside of our purview?

Atty. Hooks stated I was just talking with the Director of Personnel to find out if there was someone here who could address the specific issue that is being raised. From what I understand, this is a matter of litigation. Until that has been resolved, we would just have to wait and see. There is nothing that the Board can do at this particular point.

Comm. Blackwell stated the Board has already acted, so there is no additional action...

Atty. Hooks stated that the Board could take no action at this time because there is no matter before the Board.

Comm. Blackwell stated the Board is already in the affirmative concur with what was requested initially and so right now there has been a court proceeding that has intervened in this action, which is outside of our purview.

Atty. Hooks stated exactly.

Comm. Blackwell stated we are supportive, but we need something back in front of us or the court needs to adjudicate or resolve the issue to the extent that the Chief or someone else would bring this or rarely the Board at this point is not in the position to act on anything.

Atty. Hooks stated it is before an administrative law judge or a law judge has just recently ruled, but at this point it is not in the hands of the Board, it is in the hands of the court. She asked is there someone from Labor that could speak to that issue?

Atty. Douglas Korney stated he is an attorney for the Lieutenant and Sergeants Association (LSA). The Chief points out that there is an arbitration award that said all sergeants on the list would have to be promoted to lieutenant and the City came to us and said, "Well you know, that was not intended." So we acted in good faith, and we said, "You're right, if you look at the literal language in the arbitration award, we could go into court or we could go before some arbitrator and say we want all sergeants promoted." We said that is not the right thing to do. The arbitration panel urged with an order that all investigators be promoted to the rank of sergeant and everybody concurred. Now that has not happened. One thing about labor relations that makes it very easy for us, is that we just go to court and we file suite is before Judge Cynthia Stevens, she has already upheld the promotion on one occasion. We are going to be back again.

Comm. Holley asked why is he unhappy?

Atty. Douglas Korney stated that he is unhappy because he represents the investigators and all of them were supposed to be promoted and they were not. In fact, what happened is that ten (10) of them were promoted; they were sworn in and they received their badges and had their stripes on the uniforms. Then, approximately ten (10) days later, somebody said, oh by the way, you got promoted, we were just kidding, we really didn't mean it. All of their badges were unceremoniously taken away. It is not the Chief's fault, the Chief acted in good faith throughout. It is the City Labor Relations.

Chief Ella Bully M. Cummings stated that this is an issue that because it is currently in litigation, I'm unavailable to comment.

Atty. Douglas Korney stated that we want to make it clear that the Chief throughout has acted in complete good faith.

Comm. Blackwell stated that this Board is acting in good faith.

Atty. Douglas Korney stated and this Board has acted in good faith.

Comm. Blackwell stated that I will say this. I don't know the merits of the case and I won't get into it but I have confidence that that Judge Cynthia Stephens is an excellent jurist who I am sure will appropriately adjudicate this case in a fair and equitable manner. And that you know that this Board who did it the first time, stands ready if necessary to do it again.

Atty. Douglas Korney stated that we have every confidence.

Comm. Blackwell stated that to hit a pitch, it must be thrown first. There is no pitch for us to hit right now so we will be waiting.

8. ORAL COMMUNICATION FROM THE AUDIENCE

Bernice Smith stated that she had arrived from Lansing regarding the death penalty for the shooting deaths of Police Officers Matthew Bowen and Jennifer Fetting. The issue for voted down and not approved. The vote was 55 against the death penalty and 52 for the death penalty.

Leonard Henderson stated that he had written a letter to Chief Ella M. Bully-Cummings alleging that he had been beaten up on January 13, 2004 and that the police officers in the 13th Precinct are not doing anything.

Herman Vallery expressed his concern regarding the DPOA and alleges that they are corrupt from the top on down and including the attorneys.

Mr. Cracchiolo addressed his question to Chief Ella M. Bully-Cummings regarding the extension of police hours after the deaths of the police officers, was done in conjunction with the police unions or was it some type of committee that she authorized for extension of the police hours?

Chief Ella M. Bully-Cummings stated that I am not really sure I understand your question, Mr. Cracchiolo.

Mr. Cracchiolo asked if that the police hours were extended and was that decision made by yourself or did you have some meeting with the police union that you had come to this conclusion together or was it your decision entirely?

Chief Ella M. Bully-Cummings stated that it was the decision of management to implement what we felt necessary to provide for the public's safety in the City of Detroit.

Mr. Cracchiolo asked did the union have any input into this?

Chief Ella M. Bully-Cummings answered the union is not part of management.

Mr. Cracchiolo stated soon afterwards, this order was rescinded. Was this some arbitration thing where the police union came up and said these men and women are working too long or was it a financial decision? How was this decision arrived at?

Chief Ella M. Bully-Cummings answered it was a management decision to end the 12 hour shifts.

Mr. Cracchiolo stated that it was his understanding that the union came forward and stated that it was putting an undue hardship upon them and that they were working all of these hours.

Chief Ella M. Bully-Cummings stated let me help you out here, the DPOA filed.....

Mr. Cracchiolo stated that you don't have to help me out, ma'am..

Chief Ella M. Bully-Cummings stated no, I am going to help you out because I am going to

Mr. Cracchiolo stated that you have clarified it.

Chief Ella M. Bully-Cummings stated that the union filed a motion for a temporary restraining order and they lost. The 12 hour shifts were stopped as a direct result of a management decision and not based upon anything that the union did.

Mr. Cracchiolo asked so it was not any type of pressure that was put upon the department such as the blue flu, etc.?

Chief Ella M. Bully-Cummings answered no, Mr. Cracchiolo.

Comm. Hampton stated to Mr. Cracchiolo that his questions may be a little out of order. The Chief is not being investigated and you should not be interrogating her.

Mr. Cracchiolo stated I am not investigating her, I just wanted to know how....

Comm. Hampton stated that management has the right to make decisions on the starting time, quitting time, the scope of the work and so forth, and management made that decision.

Mr. Cracchiolo stated that he just wanted to know if this submission was made solely on the Chief or did the union have any input?

Comm. Hampton stated to Mr. Cracchiolo that the Chief was very detailed in her explanation. They call that badgering the witness in court.

Star Ellen Carter alleges that her son is still incarcerated and is innocent of all charges. She alleges that the guilty officers are back on the street. She stated that the Commissioners and the investigators have not done their jobs.

Ms. Walters expressed her concerns about the recruiting process. She stated that we should start with the preschool age children before they reach adulthood.

9. ANNOUNCEMENT OF NEXT MEETING

Thursday, March 25, 2004, @ 3:00 p.m.
Police Headquarters

1300 Beaubien, Room 328-A
Detroit, MI 48226

10. ADJOURNMENT

Meeting was adjourned at 4:50 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/fyh